

stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244. See also section 6001, requiring records to be maintained.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (c) is amended by revising the entry in the table for § 1.1244(e)-1 to read as follows:

1.1244(e)-1	1545-0123
	1545-1447

Margaret Milner Richardson,
Commissioner of the Internal Revenue.

Dated: March 27, 1995.

Leslie Samuels,
Assistant Secretary for the Treasury.
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26 CFR Part 301

[TD 8595]

RIN 1545-AI24

Payment of Internal Revenue Tax by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations regarding payments with respect to internal revenue taxes and internal revenue stamps by check or money order. Changes to the applicable tax law were made by the Tax Reform Act of 1984 (TRA). The amendments, which are intended to conform the regulations to the change in the statute, apply to persons making payments with respect to internal revenue taxes or stamps by check or money order and to financial institutions that issue or guarantee payment of checks or money orders.

EFFECTIVE DATE: August 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, 202-622-3640 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

These final regulations contain changes to § 301.6311-1 to reflect amendments made to section 6311 by

section 448(a) of the Tax Reform Act of 1984, Pub. L. 98-369 (TRA). The IRS published a notice of proposed rulemaking in the **Federal Register** on August 22, 1994, (59 FR 43073) providing proposed rules under section 6311 of the Internal Revenue Code (Code). No public comments were received, and the final regulations are identical to the proposed regulations.

Explanation of Provisions

Section 6311(a) of the Code provides that the IRS may receive for internal revenue taxes, or in payment for internal revenue stamps, checks or money orders, to the extent and under the conditions specified in the regulations. The regulations relating to payment by check refer only to checks drawn on a domestic bank or trust company.

If money orders or certain kinds of checks tendered in payment are not duly paid, then section 6311(b)(2) provides the United States with a lien against all the assets of the drawee or issuer for the amount of the check or money order. Before its amendment, this rule applied, in the case of checks, only with respect to certified, treasurer's or cashier's checks drawn on a bank or trust company. Section 448(a) of TRA expanded section 6311(b)(2) to include guaranteed drafts drawn on financial institutions other than banks and trust companies.

The amendments to the regulations reflect the TRA change and clarify that payment may be made by check or draft drawn on any domestic financial institution. In addition, the regulations provide a definition of "financial institution." Since the Bureau of Alcohol, Tobacco, and Firearms has issued, under 27 CFR, its own separate regulations governing payment by check or money order, provisions of these regulations referring to the Bureau of Alcohol, Tobacco, and Firearms have been removed.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business

Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Robert A. Walker, Office of Assistant Chief Counsel (General Litigation). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6311-1 is amended by:

1. Revising the first, second, and last sentences of paragraph (a)(1)(i).
2. Revising paragraph (a)(2).
3. Removing paragraph (a)(3).
4. Revising paragraph (b).
5. Adding paragraphs (d) and (e).

The additions and revisions read as follows:

§ 301.6311-1 Payment by check or money order.

(a) * * *

(1) * * *

(i) District directors, Service Center directors, and Compliance Center directors (director) may accept checks or drafts drawn on any financial institution incorporated under the laws of the United States or under the laws of any State, the District of Columbia, or any possession of the United States, or money orders in payment for internal revenue taxes, provided the checks, drafts, or money orders are collectible in United States currency at par, and subject to the further provisions contained in this section. The director may accept the checks, drafts, or money orders in payment for internal revenue stamps to the extent and under the conditions prescribed in paragraph (a)(2) of this section. * * * However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

* * * * *

(2) *Payment for internal revenue stamps.* The director may accept checks, drafts, and money orders described in paragraph (a)(1) of this section in payment for internal revenue stamps. However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

(b) *Checks or money orders not paid—*
(1) *Ultimate liability.* The person who tenders any check (whether certified or uncertified, cashier's, treasurer's, or other form of check or draft) or money order in payment for taxes or stamps is not released from his or her liability until the check, draft, or money order is paid; and, if the check, draft, or money order is not duly paid, the person shall also be liable for all legal penalties and additions, to the same extent as if such check, draft, or money order had not been tendered.

(2) *Liability of financial institutions and others.* If any certified, treasurer's, or cashier's check, or other guaranteed draft, or money order, is not duly paid, the United States shall have a lien for the amount of such check or draft upon all assets of the financial institution on which drawn, or for the amount of such money order upon the assets of the issuer thereof. The unpaid amount shall be paid out of such assets in preference to any other claims against such financial institution or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution. In addition, the Government has the right to exact payment from the person required to make the payment.

* * * * *

(d) *Financial institution.* For purposes of section 6311 and this section, *financial institution* includes but is not limited to—

(1) A bank or trust company (as defined in section 581);

(2) A domestic building and loan association (as defined in section 7701(a)(19));

(3) A mutual savings bank (including but not limited to a mutual savings bank as defined in section 591(b));

(4) A credit union (including both state and federal credit unions, and including but not limited to a credit union as defined in section 501(c)(14)); and

(5) A regulated investment company (as defined in section 851(a)).

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: April 5, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4 and 116

[CGD 91-063]

RIN 2115-AE15

Alteration of Obstructive Bridges

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations which set out and describe the procedures for determining whether a bridge unreasonably obstructs the free navigation of navigable waters of the United States and, if it does, the procedures for ordering its alteration under the Truman-Hobbs Act, the Bridge Act of 1906, or the Rivers and Harbors Appropriation Act of 1899. The amendments clarify and provide additional details to the description of these procedures.

DATES: This rule becomes effective on May 30, 1995.

ADDRESSES: Documents referenced in this preamble are available for inspection and copying at the office of the Executive Secretary, Marine Safety Council, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, Room 3406, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477 for more information.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Tyssens, Alterations, Drawbridges, and Systems Branch (G-NBR-1), at (202) 267-0376.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. Larry R. Tyssens, Project Manager, Office of Navigation Safety and Waterway Services, and LT Rachel Goldberg, Project Counsel, Office of the Chief Counsel.

Regulatory History

On March 22, 1994, the Coast Guard published a Notice of Proposed

Rulemaking (NPRM) entitled "Alteration of Obstructive Bridges" in the **Federal Register** (59 FR 13588). Opportunity for comment on the proposal was provided until May 23, 1994.

Discussion of Comments and Changes

Four letters were received in response to the NPRM. Two of the comments were submitted by railroad trade associations, one by a private individual, and one comment was from the U.S. Department of Interior.

The Department of Interior reminded the Coast Guard that in the process of ordering the alteration of unreasonably obstructive bridges, the Coast Guard must comply with the requirements of section 4(f) of the Department of Transportation Act and section 106 of the National Historic Preservation Act. Interior also commented that the Coast Guard should take into consideration the implementation of section 147 of the Federal Aid Highway Act of 1976 (Pub. L. 94-280). Section 4(f) of the Department of Transportation Act ensures that Department of Transportation agencies, including the Coast Guard, make a special effort to preserve the natural beauty of public lands and parks. The act includes a requirement for an agency determination that every project undertaken does not adversely impact these lands unless no feasible alternative exists and that any harm which may result is minimized. The Coast Guard has procedures to ensure compliance with this requirement. Internal Coast Guard instructions, found in Chapter 2 of the *Bridge Administration Manual* (COMDTINST M16590.5A), detail the procedures to be followed by a District Commander to determine if a bridge alteration will result in any impact on 4(f) property and, if such impact is anticipated, procedures for evaluating the planned impact and consideration of alternatives.

Section 106 of the National Historic Preservation Act (16 U.S.C. 470) requires that Federal agencies identify and help preserve historic and cultural resources. To meet this requirement, internal Coast Guard instructions, also detailed in Chapter 2 of the *Bridge Administration Manual*, require a Coast Guard official to review the National Register of Historic Places to determine if any listed properties are within one-half mile of an alteration project. If there are any listed properties in the area, the Coast Guard must document any effects on such property and prepare an Environmental Impact Statement if one is warranted. In the development of any